



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R2–ES–2012–0042; FF09E21000 FXES11110900000 212]

RIN 1018–AX13

Endangered and Threatened Wildlife and Plants; Revision of the Critical Habitat Designation for the Jaguar in Compliance with a Court Order

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are issuing this final rule to comply with a court order to vacate Unit 6 and the New Mexico portion of Unit 5 from the March 5, 2014, final rule designating approximately 764,207 acres (309,263 hectares) of land in New Mexico and Arizona as critical habitat for the jaguar (*Panthera onca*) under the Endangered Species Act of 1973, as amended (Act). In compliance with the court order, this final rule removes approximately 110,438 acres (44,693 hectares) of land within New Mexico from the designation of critical habitat for the jaguar.

DATES: This rule is effective [INSERT DATE OF FEDERAL REGISTER PUBLICATION]. However, the court order had legal effect immediately upon being filed on January 27, 2021.

FOR FURTHER INFORMATION CONTACT: U.S. Fish and Wildlife Service, Attn: Jeff Humphrey, at 9828 North 31st Avenue #C3 Phoenix, Arizona 85051, by telephone at 602-242-0210, or by email at incomingazcorr@fws.gov. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 800-877-8339.

SUPPLEMENTARY INFORMATION:

Background

On March 5, 2014, we published in the *Federal Register* a final rule (79 FR 12572) designating approximately 764,207 acres (309,263 hectares) of land in New Mexico and Arizona as critical habitat for the jaguar under the Act (16 U.S.C. 1531 et seq.). The jaguar's critical habitat designation is set forth in our regulations in title 50 of the Code of Federal Regulations (CFR) at § 17.95(a) (50 CFR 17.95(a)). Please see the March 5, 2014, final rule for a complete discussion of previous Federal actions.

On May 20, 2015, the New Mexico Farm & Livestock Bureau, New Mexico Cattlegrowers' Association, and New Mexico Federal Lands Council filed a lawsuit challenging the March 5, 2014, final rule's designation of Unit 6 and the portions of Unit 5 in New Mexico, and seeking declaratory judgment and injunctive relief. On October 25, 2017, the district court denied plaintiffs' petition for injunctive relief and affirmed the Service's decision.

On January 7, 2019, plaintiffs appealed the district court decision to the U.S. Court of Appeals for the Tenth Circuit. On March 17, 2020, the appellate court reversed the decision of the district court and remanded the relevant portions of the jaguar critical habitat rule for proceedings consistent with its decision. See *New Mexico Farm & Livestock Bureau, New Mexico Cattlegrowers' Association, and New Mexico Federal Lands Council v. United States Department of the Interior*, 952 F.3d 1216 (March 17, 2020). Upon remand, on January 27, 2021, the district court ordered the Service to vacate the March 5, 2014, final rule's designation of Unit 6 and the New Mexico portion of Unit 5. This rule implements the January 27, 2021, order of the district court.

Administrative Procedure

This rulemaking is necessary to comply with the January 27, 2021, court order. Therefore, under these circumstances, the Service Director (Director) has determined, pursuant to 5 U.S.C. 553(b)(3)(B), that prior notice and opportunity for public comment

are impracticable and unnecessary. Because the court order had legal effect immediately upon being filed on January 27, 2021, the Director has further determined, pursuant to 5 U.S.C. 553(d)(3), that the agency has good cause to make this rule effective immediately upon publication.

Effects of the Rule

This rule is an administrative action to remove approximately 110,438 acres (44,693 hectares) of land within New Mexico from the jaguar’s critical habitat designation at 50 CFR 17.95(a).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Amendment

Accordingly, for the reasons given in the preamble, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below.

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

1. The authority citation for part 17 continues to read as follows:

AUTHORITY: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

2. Amend § 17.95, in paragraph (a), in the entry for “Jaguar (*Panthera onca*),” by:

- a. Removing the words “and Hidalgo County, New Mexico,” in paragraph (1);
- and
- b. Revising paragraphs (5) and (7).

The revisions read as follows:

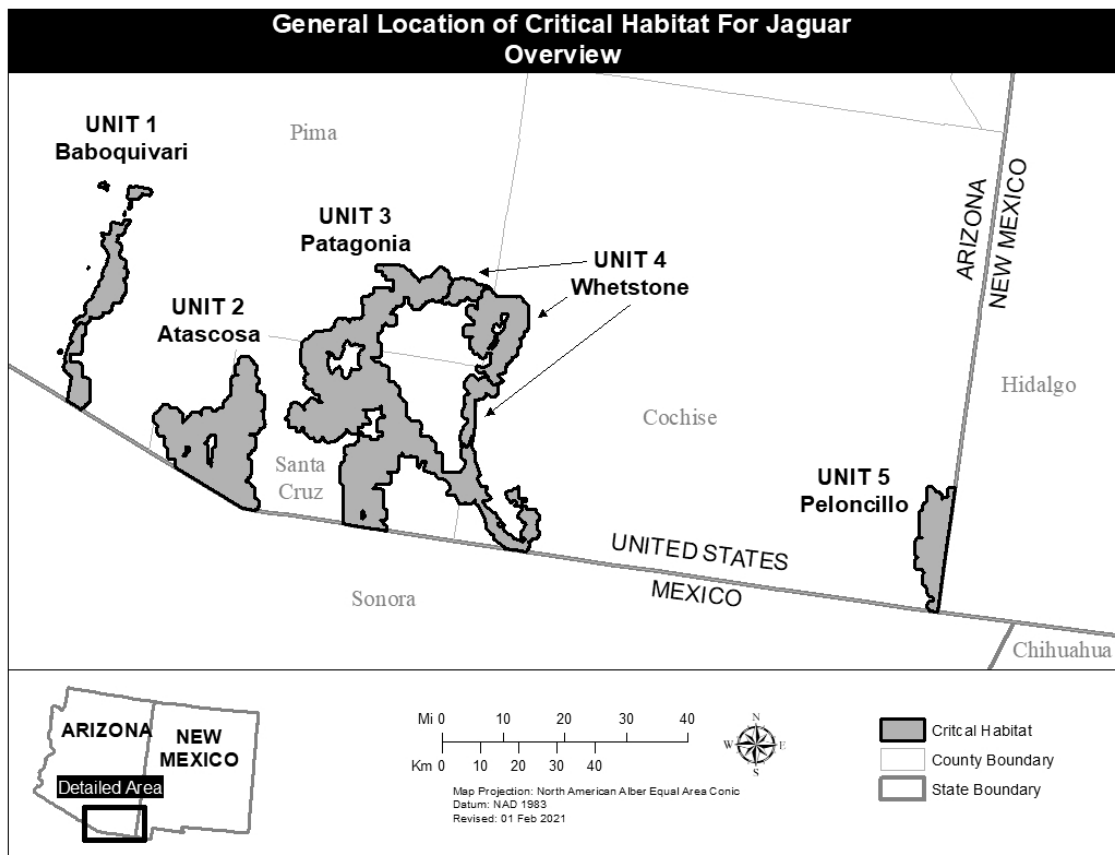
§ 17.95 Critical habitat—fish and wildlife.

(a) * * *

Jaguar (*Panthera onca*)

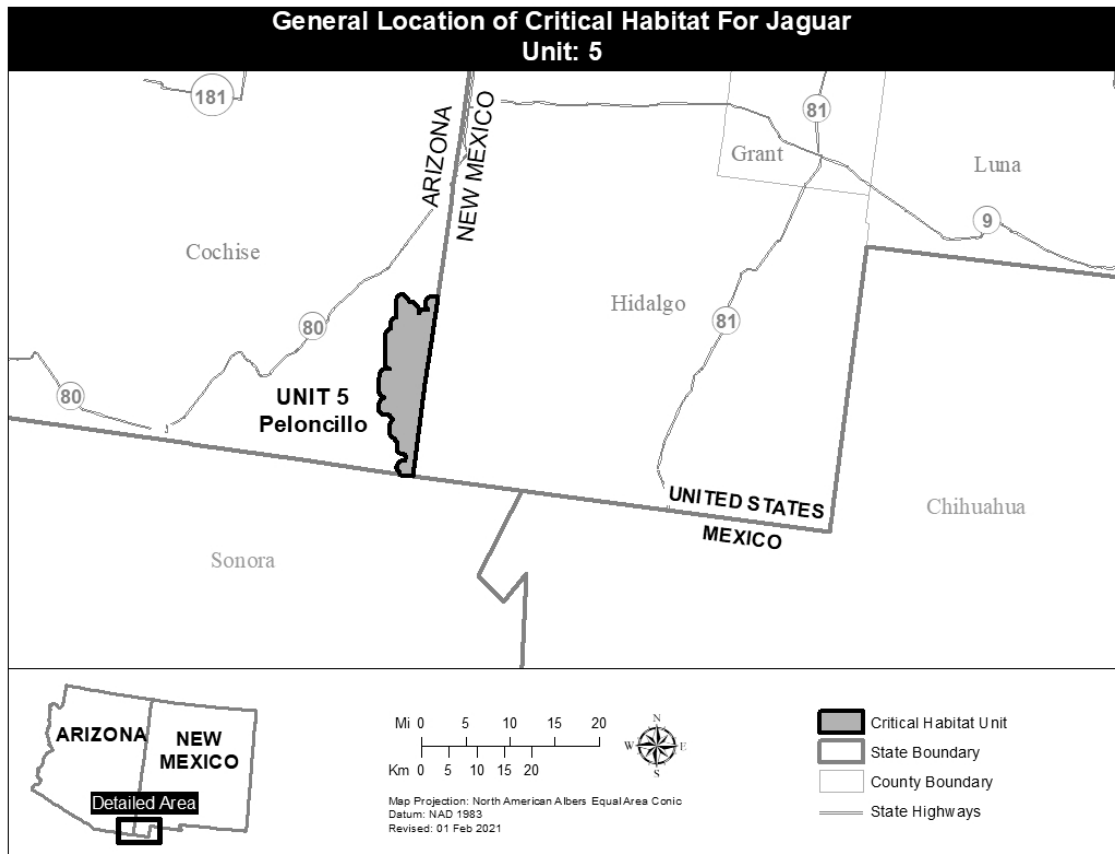
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(5) Note: Index map follows:



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(7) Unit 5: Peloncillo Unit, Cochise County, Arizona. Map of Unit 5 follows:



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Martha Williams
*Principal Deputy Director
 Exercising the Delegated Authority of the Director
 U.S. Fish and Wildlife Service.*